

AMENDED IN SENATE MAY 3, 2006
AMENDED IN SENATE MARCH 29, 2006

SENATE BILL

No. 1830

Introduced by Senator Margett

February 24, 2006

An act to amend Section 1543 of the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1830, as amended, Margett. Corrections: inmate medical records.

Existing law charges the Department of Corrections and Rehabilitation with the care and custody of persons sentenced to state prison. Existing law sets forth the circumstances under which inmate medical records may be disclosed to law enforcement agencies.

This bill would provide that inmate medical records ~~that are not privileged or confidential~~ shall be made available, upon request, to a law enforcement agency that is investigating or prosecuting a ~~crime~~ *felony* committed by or against a person under the jurisdiction of the department *or other law enforcement agency*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1543 of the Penal Code is amended to
- 2 read:
- 3 1543. (a) Records of the identity, diagnosis, prognosis, or
- 4 treatment of any patient maintained by a health care facility that

1 are not privileged records required to be secured by the special
2 master procedure in Section 1524, or records required by law to
3 be confidential, shall only be disclosed to law enforcement
4 agencies pursuant to this section, as follows:

5 (1) In accordance with the prior written consent of the patient;
6 or

7 (2) If authorized by an appropriate order of a court of
8 competent jurisdiction in the county where the records are
9 located, granted after application showing good cause therefor. In
10 assessing good cause, the court shall do both of the following:

11 (A) Weigh the public interest and the need for disclosure
12 against the injury to the patient, to the physician-patient
13 relationship, and to the treatment services.

14 (B) Determine that there is a reasonable likelihood that the
15 records in question will disclose material information or evidence
16 of substantial value in connection with the investigation or
17 prosecution; or

18 (3) By a search warrant obtained pursuant to Section 1524.

19 (b) The prohibitions of this section continue to apply to
20 records concerning any individual who has been a patient,
21 irrespective of whether or when he or she ceases to be a patient.

22 (c) Except where an extraordinary order under Section 1544 is
23 granted or a search warrant is obtained pursuant to Section 1524,
24 any health care facility whose records are sought under this
25 chapter shall be notified of the application and afforded an
26 opportunity to appear and be heard thereon.

27 (d) Both disclosure and dissemination of any information from
28 the records shall be limited under the terms of the order to assure
29 that no information will be unnecessarily disclosed and that
30 dissemination will be no wider than necessary.

31 This chapter shall not apply to investigations of fraud in the
32 provision or receipt of Medi-Cal benefits, investigations of
33 insurance fraud performed by the Department of Insurance or the
34 California Highway Patrol, investigations of workers'
35 compensation insurance fraud performed by the Department of
36 Corrections and Rehabilitation and conducted by peace officers
37 specified in paragraph (2) of subdivision (d) of Section 830.2,
38 and investigations and research regarding occupational health
39 and safety performed by or under agreement with the Department
40 of Industrial Relations. Access to medical records in these

1 investigations shall be governed by all laws in effect at the time
2 access is sought.

3 (e) Nothing in this chapter shall prohibit disclosure by a
4 medical facility or medical provider of information contained in
5 medical records where disclosure to specific agencies is
6 mandated by statutes or regulations.

7 (f) This chapter shall not be construed to authorize disclosure
8 of privileged records to law enforcement agencies by the
9 procedure set forth in this chapter, where the privileged records
10 are required to be secured by the special master procedure set
11 forth in subdivision (c) of Section 1524 or required by law to be
12 confidential.

13 (g) Records that are maintained by the Department of
14 Corrections and Rehabilitation that pertain to an inmate, ward, or
15 parolee *who is either a victim or a suspect of a felony committed*
16 *by or against a person within the physical custody of the*
17 *department or other law enforcement agency* shall be made
18 available, upon request, to a law enforcement agency that is
19 investigating or prosecuting ~~a crime committed by or against a~~
20 ~~person under the jurisdiction of the department.~~ *the felony.*